



## U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

February 12, 2020

**BY ECF**

The Honorable Paul G. Gardephe  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, New York 10007

**Re:   *United States v. Michael Avenatti,*  
      **S1 19 Cr. 373 (PGG)****

Dear Judge Gardephe:

The Government respectfully submits this letter on behalf of both parties to jointly suggest that the Court instruct the jury that the following exhibits containing text messages were offered for the purposes listed below.

<b><u>Exhibit</u></b>	<b><u>Purpose</u></b>
GX 103A	Defendant's state of mind
GX 103B	Defendant's state of mind
GX 103C	Defendant's state of mind
GX 103D	For any purpose the jury finds appropriate, including for the truth of any factual assertions
GX 103F	Defendant's state of mind
GX 103G	Defendant's state of mind
GX 132	Defendant's knowledge
GX 133	Defendant's knowledge
GX 201	Defendant's state of mind
GX 206	Background
GX 308	Defendant's state of mind
GX 310	Auerbach's state of mind
GX 310R	Auerbach's and/or Defendant's state of mind
GX 312	Defendant's state of mind
GX 319	Auerbach's and/or Defendant's state of mind
GX 321	Auerbach's and/or Defendant's state of mind
DX D-1	Defendant's state of mind
DX D-3	Defendant's state of mind
DX D-4	Defendant's state of mind

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<u><b>Exhibit</b></u>	<u><b>Purpose</b></u>
DX D-6	Defendant's state of mind
DX FF-1	Auerbach's and/or Franklin's state of mind
DX FF-1A	Auerbach's and/or Franklin's state of mind
DX FF-911	Auerbach's and/or Franklin's state of mind
DX I-2	Defendant's state of mind
DX MM-2	Auerbach's and/or Franklin's state of mind
DX TT	Background

In addition, the parties jointly request that the Court provide an additional instruction regarding all text messages that were offered for state of mind during the trial. The Government proposes the following instruction, which defense counsel intends to review with their client prior to the resumption of deliberations tomorrow morning:

Let me note that the text messages that were admitted into evidence for you to consider in evaluating the state of mind of one or more individuals does not mean that the parties necessarily agree as to what the state of mind was, or what inference, if any, you should draw from that state of mind.

Respectfully submitted,

GEOFFREY S. BERMAN  
 United States Attorney

By:



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cc: (by ECF)

Counsel of Record